

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: S-A O. Wilkinson	Team: Team # 1	CCRB Case #: 200104800	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 06/26/2001 8:10 PM	Location of Incident: the corner of Clinton Avenue and Huntington Street	Precinct: 76	18 Mo. SOL 12/26/2002	EO SOL 12/26/2002	
Date/Time CV Reported Thu, 06/28/2001 1:12 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 06/28/2001 1:12 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Louis Gagliardi	30540	903980	076 PCT
2. SGT Daniel Miraglia	04810	913785	076 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Louis Gagliardi	Force: PO Louis Gagliardi used physical force against § 87(2)(b)	
B.SGT Daniel Miraglia	Abuse: Sgt. Daniel Miraglia threatened to arrest § 87(2)(b)	

Synopsis

On June 26, 2001 at 8:10PM, § 87(2)(b) was riding his bicycle on the sidewalk and was approached by Sgt. Daniel Miraglia and PO Louis Gagliardi at Huntington Street and Clinton Avenue in Brooklyn. The officers allegedly grabbed § 87(2)(b)'s arm and threatened to arrest him during the incident. At the conclusion of the encounter, PO Gagliardi issued § 87(2)(b) summonses for § 87(2)(b). The interviews conducted were consistent that the officers approached § 87(2)(b) on the sidewalk and he was given the option of either being taken to the stationhouse to be issued the summons or having the summonses completed on the scene. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Summary of complaint

§ 87(2)(b) was interviewed on July 10, 2001 at CCRB (enclosure). He is a § 87(2)(b) year-old black male who, at the time of the incident, was riding his bicycle on the sidewalk. § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) stated that on June 26, 2001 at 8:00PM, he rode his bicycle southbound in the street on Atlantic Avenue. § 87(2)(b) rode with the flow of traffic and headed towards Red Hook in Brooklyn. As § 87(2)(b) continued to ride, he observed police officers, in a blue and white Ford van, following behind him from Carroll and Court Streets. Eventually, the police van drove by § 87(2)(b) and parked approximately six to eight blocks away at the corner of Clinton Avenue and Huntington Street. § 87(2)(b) converged on Clinton Avenue when the police officers, who were later identified as Sgt. Daniel Miraglia and PO Louis F. Gagliardi, exited the van. The officers approached § 87(2)(b) and gave him no verbal instructions. § 87(2)(b) alleged that PO Gagliardi grabbed his left arm to escort him off the bicycle. Afterwards, § 87(2)(b) alleged that Sgt. Miraglia told him to calm down or he would be locked up. § 87(2)(b) denied that he was riding on the sidewalk and tried to explain the situation to the officers. § 87(2)(b) was not arrested from the encounter but was emotionally traumatized. However, as of the case closing date, § 87(2)(b) has not sought medical treatment.

Results of investigation

Officer Testimony

The 76th Precinct's June 26, 2001 tour 3 roll along with the two summonses issued to § 87(2)(b) identified Sgt. Daniel Miraglia and PO Louis F. Gagliardi as being assigned to marked conditions van# 5361 and as the subjects of this investigation.

Subject Sergeant Daniel Miraglia

Sgt. Miraglia was interviewed at CCRB on August 6, 2001 (enclosure). Sgt. Miraglia stated that he and his partner, PO Louis F. Gagliardi, were on routine patrol driving southbound on Court Street in Brooklyn on June 26, 2001 at 8:00PM. As they proceeded down Court Street, Sgt. Miraglia stated that he observed a male, later

identified as § 87(2)(b) riding his bicycle westbound on Hamilton Avenue on the sidewalk. Sgt. Miraglia stated there have been several community complaints filed and discussed during community board meetings regarding bicycle riding on the sidewalks. As a result, the conditions unit was addressing a 76th Precinct condition.

Instead of making an immediate decision about § 87(2)(b) riding his bicycle on the sidewalk, Sgt. Miraglia and PO Gagliardi drove around the corner to Hamilton Avenue. Thirty seconds later, Sgt. Miraglia still witnessed § 87(2)(b) continuing to ride his bicycle westbound on the sidewalk. As PO Gagliardi and Sgt. Miraglia stopped their marked van and exited, they immediately approached § 87(2)(b) who was still riding his bicycle.

As Sgt. Miraglia and PO Gagliardi walked onto the sidewalk, § 87(2)(b) rode past the officers and proceeded into the street. At that point, Sgt. Miraglia requested that § 87(2)(b) return to the sidewalk. § 87(2)(b) did not immediately comply with the sergeant's request and began yelling and screaming at the officers. § 87(2)(b)'s verbally irate and belligerent demeanor caused vehicular traffic at Hamilton Avenue and the Gowanus Expressway's on-off ramp to slow down.

Sgt. Miraglia stated that § 87(2)(b) voluntarily got off of his bicycle as the sergeant walked the bicycle onto the sidewalk. § 87(2)(b) continued yelling and screaming, "You cops, you lie." As Sgt. Miraglia tried to explain the process of adjudicating the summons at Red Hook Community Court, § 87(2)(b) stated, "I don't care what the process is." To allow § 87(2)(b) to either deny or concede that he was riding on the sidewalk, Sgt. Miraglia stated that PO Gagliardi asked the complainant if he was riding his bicycle on the sidewalk.

To calm § 87(2)(b) down, Sgt. Miraglia gave the complainant a verbal warning, "Calm down or we'll have to handcuff you and take you to the precinct to issue you a summons." Afterwards § 87(2)(b) admitted to PO Gagliardi that he was riding on the sidewalk but gave the officer no reason for his action. Although § 87(2)(b) was agitated and unhappy that he was getting a summons, Sgt. Miraglia stated, "He does not touch anyone when they are only getting a summons for cycling on the sidewalk."

In the three years Sgt. Miraglia has been assigned to the conditions unit, he has written close to three thousand summonses and writes approximately seventy-five to one hundred per month. As a result, Sgt. Miraglia warned § 87(2)(b) of the actions he and his partner would have to take if he did not cease in causing vehicular traffic to stop moving. Sgt. Miraglia denied that he or PO Gagliardi had any physical contact with § 87(2)(b) because he was only going to be issued a summons for riding on the sidewalk.

Subject Officer Louis F. Gagliardi

PO Gagliardi was interviewed at CCRB on July 31, 2001 (enclosure). PO Gagliardi stated that he and his partner, Sgt. Miraglia, were driving southbound on Court Street in a marked police van. Initially the officers saw a male civilian, who was later identified as § 87(2)(b) at Huntington and Court Streets riding a bicycle in the street. Later, § 87(2)(b) rode the bicycle in front of the van and onto the sidewalk. As § 87(2)(b) went on the sidewalk, PO Gagliardi drove the police van around the corner and parked at the corner of Huntington Street and Hamilton Avenue. There are three 76th Precinct conditions mentioned at community board meetings regarding 1) bike riding on the sidewalk, 2) drinking alcohol in public, and 3) unleashed dogs. Upon their return to

the place of occurrence, PO Gagliardi and Sgt. Miraglia saw § 87(2)(b) still riding on the sidewalk from Court Street to Hamilton Avenue.

At that point, Sgt. Miraglia and PO Gagliardi exited the van and approached § 87(2)(b) on the sidewalk. Sgt. Miraglia directed § 87(2)(b) to stop and get off of the bicycle. § 87(2)(b) complied and became irate by screaming and yelling, “This is wrong. White cops lie for a living. I’m part of your agenda.” Due to § 87(2)(b)’s hostile behavior, cars exiting and entering the Brooklyn-Queens Expressway (BQE) started to slow down to watch what was happening. People also stopped to listen to § 87(2)(b)’s verbal tirade against the officers. To calm § 87(2)(b) down, Sgt. Miraglia said, “Calm down and stop drawing attention or we’ll remove you the stationhouse to issue the summons as opposed to doing it on the street.” After a few minutes, § 87(2)(b) calmed down but remained hostile towards the officers and a warrant check was performed. The check was negative and PO Gagliardi issued § 87(2)(b) summonses for riding on the sidewalk and disorderly conduct.

The two summonses were issued and § 87(2)(b) was released at the location. During the entire encounter, PO Gagliardi and Sgt. Miraglia never touched § 87(2)(b). In fact, when Sgt. Miraglia directed § 87(2)(b) to stop, he immediately came off his bicycle on his own.

Police – Documents

Summonses numbered § 87(2)(b) and § 87(2)(b) were issued to § 87(2)(b) by PO Gagliardi for unlawful bike riding on the sidewalk, Administrative Code section 19 subsection 176, and disorderly conduct, Administrative Code section 210 subsection 20. Both summonses were adjudicated with guilty dispositions (enclosure).

The 76th Precinct tour 3 roll call verified the presence of Sgt. Miraglia and PO Gagliardi. They were assigned to the conditions unit on June 26, 2001(enclosures).

The 76th Precinct vehicle log confirmed that the vehicle having plate number 5361 is a marked 1999 Ford van assigned to Sgt. Miraglia on June 26, 2001 (enclosure).

The 76th Precinct resource log for June 26, 2001 vehicle and sector activities failed to identify an incident involving § 87(2)(b) PO Gagliardi, and Sgt. Miraglia (enclosure).

The radio-run index verified that no radio transmissions were made about the incident involving § 87(2)(b) and the officers on June 26, 2001 at Huntington Street and Clinton Avenue (enclosure).

Conclusions and Recommendations

There are two indisputable facts regarding the incident that occurred on June 26, 2001 between § 87(2)(b) PO Gagliardi, and Sgt. Miraglia: a) § 87(2)(b) rode his bicycle on the sidewalk and b) PO Gagliardi issued § 87(2)(b) summonses for riding on the sidewalk and disorderly conduct.

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S-A O. WILKINSON

03-06-02